



Agenda Date: 4/11/01
Agenda Item: 3C

STATE OF NEW JERSEY

Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

CABLE TELEVISION

IN THE MATTER OF THE APPLICATION OF)
TKR CABLE COMPANY OF WILDWOOD, INC.)
TCI ATLANTIC, INC. AND COMCAST)
CABLE COMMUNICATIONS, INC. FOR)
APPROVAL OF CERTAIN TRANSACTIONS)
INCLUDING THE TRANSFER OF ASSETS AND)
CERTIFICATES OF APPROVAL)

ORDER OF APPROVAL

DOCKET NO. CM00110923

(SERVICE LIST ATTACHED)

BY THE BOARD:

On November 22, 2000, TKR Cable Company of Wildwood, Inc. ("TKR Wildwood"), a Delaware corporation, TCI Atlantic, Inc. ("TCI Atlantic"), a Colorado corporation, and Comcast Cable Communications, Inc. ("Comcast Cable"), a Delaware corporation, (collectively the "Petitioners") petitioned the Board of Public Utilities ("Board"), pursuant to the provisions of N.J.A.C. 14:17-6.10 and 6.8, for approval of pending Transactions ("Transactions") resulting in the acquisition of TKR Wildwood's and TCI Atlantic's cable television systems by Comcast Cable.

TKR Wildwood owns and operates a cable television system (the "Wildwood System") serving several municipalities in Cape May County, New Jersey.¹ TCI Atlantic owns and operates a cable television system (the "Maple Shade/Gloucester System") serving several municipalities in Burlington and Camden Counties, New Jersey.² TKR Wildwood and TCI Atlantic are each indirect wholly owned subsidiaries of AT&T Corporation ("AT&T"), a New York corporation, with headquarters in New York.

AT&T is a substantial participant in the communications industry, on a national and international basis. It is the largest provider of domestic and international long distance telephone service in the United States, and operates in more than 250 countries and territories around the world. In addition, AT&T's other communications services include local telephone, wireless, Internet access and cable television services.⁴

¹ TKR Wildwood is authorized to serve the following municipalities: Cape May City, Cape May Point Borough, Lower Township, Middle Township, North Wildwood City, U.S. Coast Guard, West Cape May Borough, West Wildwood Borough, Wildwood City, and Wildwood Crest Borough.

² TCI Atlantic is authorized to serve the following municipalities: Brooklawn Borough, Gloucester City, Maple Shade Township and Mount Ephraim Borough.

⁴ References herein to AT&T where indicated by the context, shall be understood to mean AT&T and/or its cable television subsidiaries.

Comcast Cable is a wholly owned subsidiary of Comcast Corporation ("Comcast"), a Delaware corporation. Comcast, headquartered at 1500 Market Street, Philadelphia, Pennsylvania 19102-2148, is the third largest multi-system operator or ("MSO") in the United States, serving, through its various subsidiaries, approximately 7.5 million subscribers in 22 states.⁵ Nearly half of Comcast's cable subscribers are concentrated in the States of New Jersey, Pennsylvania, Delaware, Maryland and Virginia. Comcast Cable owns the stock of certain other subsidiaries⁶ which, pursuant to N.J.S.A. 48:5A-1 et seq., own and operate cable television systems in New Jersey. Petitioners advised the Board that as a result of geographic and other considerations, AT&T and Comcast each have determined that certain systems to be acquired from the other would more rationally fit within its existing regional clusters of cable television systems. Accordingly, AT&T and Comcast entered into a letter agreement ("Letter Agreement") dated May 4, 1999, pursuant to which the Petitioners will exchange (or cause their various subsidiaries to exchange) certain cable television systems. In connection with the Letter Agreement, AT&T and Comcast subsequently entered into an Agreement and Plan of Reorganization ("Redemption Agreement"), dated August 11, 2000, pursuant to which Comcast will acquire certain AT&T Cable systems in return for a redemption of AT&T stock held by Comcast. As part of the Transaction, Comcast Cable will acquire the Maple Shade/Gloucester and Wildwood systems. It is anticipated that AT&T will first cause the transfer of the Maple Shade/Gloucester systems, together with all assets used in those systems, including the Certificates of Approvals issued by the Board, to TKR Wildwood. AT&T will then cause the transfer of the stock of TKR Wildwood to be transferred to Comcast Cable.

Simultaneously with the filing of the Petition in this matter, Petitioners also filed with the Board a Federal Communications Commission ("FCC") Form 394 setting forth pertinent information concerning the Transactions. Attached to the Form 394 is a copy of the Redemption Agreement. Schedule 1.12 to the Redemption Agreement specifies those cable television systems presently owned by AT&T, including the Wildwood System and the Maple Shade/Gloucester Systems, which are to be effectively transferred to Comcast through the transfer of ownership of stock.

Petitioners further advised that the Transactions will enable both AT&T and Comcast to better and more efficiently operate their cable systems. Since the Maple Shade/Gloucester and Wildwood systems are nearby or contiguous to existing Comcast systems, the combination will aid in the development of greater regional efficiencies, which in turn, according to the Petitioners, will foster growth and enhancements for their subscribers.

⁵ References herein to Comcast Corporation, where indicated by the context, shall be understood to mean Comcast Corporation and/or its cable television subsidiaries.

⁶ Said subsidiaries are Comcast Cablevision of Northwest New Jersey, Inc., Comcast Cablevision of New Jersey, Inc., Comcast Cablevision of the Plainfields, Inc., Comcast Cablevision of Monmouth County, Inc., Comcast Cablevision of Central New Jersey, Inc., Comcast Cablevision of Ocean County, Inc., Comcast Cablevision of Burlington County, Inc., Comcast Cablevision of Gloucester County, Inc., Comcast Cablevision of Jersey City, Inc., Comcast Cablevision of the Meadowlands, Inc., Comcast Cablevision of Mercer County, Inc., Comcast Cablevision of Southeast Pennsylvania Inc. (corporation name changed from Suburban Cable TV Co., Inc.), Comcast Cable of the South, Inc., Comcast Cablevision of Avalon, LLC, Comcast Cablevision of Long Beach Island, LLC, Comcast Cablevision of New Jersey, LLC, and Comcast Cablevision of South Jersey, Inc. (corporation name changed from Lenfest Atlantic, Inc.). In addition, Comcast, directly or indirectly, owns all of the partnership interests of Comcast Cablevision of Garden State Cable, L.P. (collectively the "Comcast Subsidiaries")

Petitioners also assert that the proposed Transactions will result in benefits to the subscribers of both Comcast and AT&T, stemming from improved efficiencies and economies of operation. As noted above, various Comcast subsidiaries now provide cable television services to New Jersey subscribers through their respective cable systems.

As the Wildwood and Maple Shade/Gloucester systems in New Jersey are nearby and contiguous to existing Comcast systems in New Jersey, Comcast believes that their combination will aid in the development of greater regional efficiencies, which, in turn, will foster growth and enhancements for their subscribers. Thus, Petitioners contend that the policies underlying the legislative preference for regional systems, as expressed in N.J.S.A. 48:5A-17(b), will be advanced by and through the Transactions.

Following submission of the petition, the Petitioners provided written responses to written requests for additional information regarding the impact of the Transactions on AT&T's New Jersey cable television customers. In addition, Comcast provided information as to its ability to continue to provide safe, adequate and proper service subsequent to the Transactions.

After a review of this matter, the Board HEREBY FINDS the Transactions to be made are in accordance with law, are in the public interest and approving the purposes thereof, HEREBY AUTHORIZES the Transactions, including the transfer to Comcast of the Certificates of Approval to construct, own, operate and maintain the AT&T Systems. The Board also HEREBY AUTHORIZES the sale to Comcast of the assets of the AT&T Systems.

This Order is subject to the following requirements:

- 1) This Order shall not affect or in any way limit the exercise of the authority of the Board or the Office of Cable Television or the State of New Jersey in any future petition or in any proceeding regarding rates, cost of service, franchises, service, financing, accounting, capitalization, depreciation or any other matters affecting the Petitioners.
- 2) This Order shall not be construed as directly or indirectly fixing, for any purpose whatsoever, any value of tangible or intangible assets now owned or hereinafter to be owned by Petitioners.
- 3) This Order shall not be construed as affecting pending rate proceedings involving the Petitioners.
- 4) The Petitioners shall notify the Board, in writing, within five (5) days of the date on which each of the Transactions are consummated.
- 5) Consummation of the above referenced Transactions shall take place no later than ninety (90) days from the date of this Order, unless otherwise extended by the Board.
- 6) Petitioners shall file a Certification with the Board within thirty (30) days of the closing attesting to the lack of significant changes in the executed closing documents or final terms from those terms and conditions described herein and/or submitted to the Board with the petition. Any such significant changes in the executed closing documents shall render this Order voidable by the Board.

- 7) Petitioners shall file journal entries with the Board to record the Transactions approved herein within forty-five (45) days of closing.
- 8) In addition to the State assessment, pursuant to N.J.S.A. 48:5A-32, and municipal franchise fees, pursuant to N.J.S.A. 48:5A-30, due and owing by Comcast on systems it presently owns and operates in New Jersey, Comcast shall be liable for all State assessment and municipal franchise fees due and owing for the preceding calendar year relating to those subsequently acquired New Jersey systems it owns as of the statutory payment dates.
- 9) AT&T shall provide, within 60 days of the date of this Order, revised Office of Cable Television Forms CATV-1 and CATV-2, which shall reflect gross revenue, as defined by the applicable statutes, for the periods January 1, 2000 through December 31, 2000, for the franchises transferred.
- 10) AT&T shall provide, within 45 days of the date of closing, revised Office of Cable Television Forms CATV-1 and CATV-2, which shall reflect gross revenue, as defined by the applicable statutes, for the periods January 1, 2001 through closing, for the franchises transferred.
- 11) All franchise obligations, commitments and agreements shall continue in force in all respects under Comcast ownership.
- 12) Comcast shall file, within 45 days of the closing of the Transactions, a revised tariff for cable television service reflecting the new ownership and listing all charges as required by the Board, the Office of Cable Television or the Federal Communications Commission.
- 13) All of the obligations imposed upon AT&T by the Certificates of Approval issued by the Board for the municipalities served by it shall be assumed by Comcast.
- 14) All representations and commitments made by AT&T to the municipalities serviced by the AT&T Systems are fully enforceable as if set forth at length herein.
- 15) Approval of the transfer of assets and Certificates of Approval approved herein shall not constitute automatic approval of any business contract referenced in the Agreement or supporting documents, if Board approval, pursuant to N.J.S.A 48:5A-1 et seq., would otherwise be required.
- 16) Material deviation in the executed closing documents from the terms and conditions filed with the Board shall render this Order of Approval voidable.

- 17) Comcast, as successor company operating the Maple Shade, Gloucester and Wildwood cable systems, shall assume full and complete responsibility for compliance with the New Jersey Cable Act and the New Jersey Administrative Code, and shall provide to the Office, within sixty (60) days of the date of this Order, proof of notice for all reissued notices and rate cards, re-filed tariffs, adjustments as to bills and other remedial actions agreed or adopted as part of any Offer of Settlement or prior Order involving the Maple Shade, Gloucester and Wildwood cable systems in the form of a certified affidavit by an officer of the company, together with true and complete copies of all such notices, rate cards, tariffs, bills and any and all other documentation required to demonstrate full and complete compliance herewith.

All parties to the Transactions shall comply with the New Jersey Cable Television Act and applicable sections of the New Jersey Administrative Code.

DATED: April 27, 2001

BOARD OF PUBLIC UTILITIES
BY:

(signed)

CAROL J. MURPHY
ACTING PRESIDENT

(signed)

FREDERICK F. BUTLER
COMMISSIONER

ATTEST:

(signed)

FRANCES L. SMITH
SECRETARY

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COMMUNICATIONS, INC.
TRANSFER OF ASSETS and CERTIFICATES OF APPROVAL
DOCKET NO. CM00110923**

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